



**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION**

**CAUSE NO. FSD 133 OF 2024 (DDJ)**

**BETWEEN:**

- (1) CANTERBURY SECURITIES, LTD. (IN OFFICIAL LIQUIDATION)**
- (2) KAREN SCOTT AS JOINT OFFICIAL LIQUIDATOR OF CANTERBURY  
SECURITIES, LTD.**
- (3) RUSSELL HOMER AS JOINT OFFICIAL LIQUIDATOR OF CANTERBURY  
SECURITIES**

Plaintiffs

**AND:**

- (1) ERIN WINCZURA**
- (2) PFS LTD.**
- (3) CANTERBURY GROUP**

Defendants

**Before:** The Hon. Justice David Doyle

**Appearances:** Alice Carver and John Harris of Nelsons Attorneys at Law Ltd for the  
Plaintiffs

Richard Annette of Stuarts Humphries for the Second and Third  
Defendants

**Heard:** 31 July 2024

*240731 In the matter of Canterbury Securities Ltd – FSD 133 of 2024 (DDJ) - Judgment*

**Ex Tempore Judgment delivered:** 31 July 2024

**Draft Transcript of Ex Tempore Judgment circulated:** 12 August 2024

**Transcript approved:** 16 August 2024

*Stay of the preliminary assessment of damages issue – directions in respect of a debarring summons – variation of terms of an injunction – deprecation of late filings – overriding duty of attorneys to assist the court in the smooth administration of justice*

## **JUDGMENT**

### **Introduction**

1. I will now give a short judgment in FSD 133 of 2024 (DDJ).
2. There were two matters properly before the court today. Firstly, what has previously been described as Issue 4 namely the preliminary assessment of damages issue, which was adjourned for mention and directions today. Secondly, a debarring summons dated 22 July 2024 (the “Debarring Summons”) recently lodged by the Plaintiffs was also before the court but not for substantive hearing. There is also a consent order in respect of certain proposed variations to the injunction granted on 26 April 2024 (the “Injunction”) which I will come to shortly.

### **The preliminary assessment of damages issue**

3. I deal first of all with the preliminary assessment of damages issue. By order dated 12 July 2024, the Plaintiffs’ application for preliminary assessment of damages payable by the Second and Third Defendants was adjourned until 10am today 31 July 2024, for mention and directions.
4. The Plaintiffs and the Second and Third Defendants have agreed that such application be stayed pending further order of the court and I am content to impose the stay.

**The directions in respect of the Debarring Summons**

5. I also directed that the Debarring Summons be listed today but not for substantive hearing. In respect of the Debarring Summons I make the following orders:
  1. It is set down for a one day hearing commencing at 10am on 2 October 2024;
  2. the Defendants by 3pm on 19 August 2024 are to file and serve their evidence in response;
  3. the Plaintiffs' evidence in reply, if any, should be filed and served by 3pm on 26 August 2024;
  4. the Plaintiffs shall circulate a proposed hearing bundle index at least 14 days prior to the hearing date;
  5. by 3pm at least 7 days before the hearing date the Plaintiffs shall file a paginated hearing bundle and joint authorities bundle;
  6. by 12pm at least 6 days before the hearing date the parties shall provide and serve their skeleton arguments; and
  7. costs reserved.
6. I will be asking counsel in due course to file draft orders reflecting the determinations contained in this judgment.
7. In the orders I have just made where I have made reference to at least 14 days prior to the hearing date, at least 7 days before the hearing date and at least 6 days before the hearing date, now that we have got a hearing date of 2 October 2024 counsel can do the calculations and specify the actual day, the last day for those filings.

**The variations of the terms of the Injunction**

8. There is also a consent order lodged in respect of variations to the Injunction.
9. In respect of paragraph 1a., the disclosure part of the order, I am content to make an order substantially in terms of the draft order insofar as paragraph 1a.(i) is concerned.
10. I had serious concerns in respect of the proposed variation to paragraph 1a. (ii) and raised these with counsel. The proposed paragraph 1a. (ii) agreed by the Plaintiffs and the Second and Third Defendants read as follows: “The Plaintiffs may amend or withdraw this variation at any time and at their sole discretion by giving three days’ notice in writing of the Second and Third Respondents.” Ms Carver’s clients were good enough to indicate that paragraph 1a. (ii) could be deleted. If the Plaintiffs have any continuing concerns or if there are further developments in respect of the disclosure aspect then of course the Plaintiffs are at liberty to come back to the court for whatever further relief they consider is appropriate. It is, however, not appropriate in a court order to give a party, in its sole discretion, power to amend part of an order. The wording and control of orders and variations of orders are for courts, not for parties.
11. I would be grateful if counsel could email to my PA updated draft orders to cover the determinations contained in this judgment before 2pm today.

**Additional comments**

12. I want to make some additional comments before leaving this judgment. I will just take some time to reflect upon them before I make them but if you could just bear with me for a moment.
13. I cannot leave this judgment without making the following additional comments.
14. I have to say that both counsels’ unhealthy appetites for late filings close to hearings is really quite unhelpful and inappropriate. I hope that inappropriate, late filings will stop in the future. If they do not adverse wasted costs orders may follow. Unless specifically ordered, I do not want to see filings in the 24 hour window prior to a hearing or filings not in accordance with the FSD Guide or Court Orders. There should be no filings outwith the provisions of the orders I have made without leave of the court and a provision to that effect should be included in the orders drafted by counsel, namely:

“There should be no filings outwith the provisions of this Order without leave of the court.”

15. I should add for the sake of completeness that I am not minded to list the Summons dated 29 July 2024 of the Second and Third Defendants pending the determination of the Debarring Summons which is now due to be heard on 2 October 2024.
16. I do not add the following comments lightly. The attorneys must seriously consider their positions as responsible officers of this court and the overriding duties they owe to assist the court in the smooth administration of justice. I have to say, and it saddens me to say it, I have not been fully assisted by either counsel in this case. I say no more.

*David Doyle*

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**THE HON. JUSTICE DAVID DOYLE**  
**JUDGE OF THE GRAND COURT**